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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,981	07/25/2003	Ryan Philip Lindsay	780139.00011	4138

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EXAMINER

LUM VANNUCCI, LEE SIN YEE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 09/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,981

Applicant(s)

LINDSAY ET AL.

Examiner

Lee Lum

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) remaining is/are rejected.
- 7) ☒ Claim(s) 4-6, 11, 13, 20-22, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. The disclosure is objected to because the following elements lack antecedent basis:

- in Claim 1, line 2 – operator, line 11 – angle,
- in Claim 3 – deadman brake,
- in Claim 13, line 2 – transition, line 3 – previous driving mode,
- in Claim 18 – speed request,
- in Claim 20, line 4 – lift truck, line 14 – present driving state code, line 15 – transition (first occurrence),
- in Claim 22 – operator control,
- in Claim 24 – first and second switches.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“The switching device” leaves unclear which device is being referred – first or second switching device, as recited in Claim 20.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3611

Claims 1-3, 7-10 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Fortin 6776249.

Fortin discloses a material handling vehicle comprising

Drive system 1,

Steering mechanism 3 controlled by the operator, and being movable along an arc between horizontal and vertical positions (fig 1),

Operator speed control (via the steering mechanism),

Brake (unidentified, c4, ln 7-9; "braking segments"),

Angular position indicator (unidentified, c4, ln 26-28) activated by the steering mechanism, and providing a signal re the angle of movement of the latter,

Controller 12 receiving the signal, and placing the vehicle in one of a plurality of successive driving states based on the angle of movement (c4, ln 26-28),

The driving states including at least top and bottom braking modes, slow and fast speeds (c4, first complete paragraph),

wherein the slow and fast speeds are within a range, or a predetermined maximum (c4, ln 35-41), and,

the braking modes are at first and second angles, toward the vertical, and horizontal, respectively, (c4, ln 7-9).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

A. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Fortin in view of Trego et al 6595306.

Fortin does not disclose a deadman brake, while Trego shows this well-known brake¹³³. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this brake as shown in Trego, to brake the vehicle when a control/input device is/is not actuated, thus minimizing operator injury in an dangerous situation.

Art Unit: 3611

B. **Claims 14 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fortin in view of Hastings 3179198.

Fortin does not disclose a switch device activated by a cam mechanism, while Hastings shows this configuration with cam mechanism including elements 104/120/122, and switches 1-5MS, as described in c9, ln 56-70, and c11, second and third complete paragraphs. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this arrangement, as shown in Hastings, as one of many configurations by which a switch device for the steering mechanism may be structured.

C. **Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over Fortin in view of Hastings, and in further view of Guy 5964313.

The previous references do not disclose the steering mechanism as spring-loaded to return to a braking position, while Guy shows this arrangement with steering mechanism 102 with return spring 315, and (unidentified) brake, in c5, line 55, to c6, line 10. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this configuration, as shown in Guy, to ensure that the vehicle is braked when the steering mechanism is in a neutral position, thus minimizing operator injury when not in motion. This arrangement is well-known in the art for this obvious reason.

5. ALLOWABLE SUBJECT MATTER

a. **Claims 4-6, 11 and 13** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, including resolution of any objections. Prior art does not disclose a vehicle having a steering mechanism as described above further comprising switches providing two-bit signals, nor the controller actuating a brake in a case where no driving has occurred for a period of time.

Art Unit: 3611

b. **Claims 20-25 are allowable**, after resolution of any 112/2nd rejections.

Prior art does not disclose a vehicle vehicle having a steering mechanism as described above, further comprising switches providing two-bit signals, nor the controller applying a brake if there is a nonsequential transition between driving states.


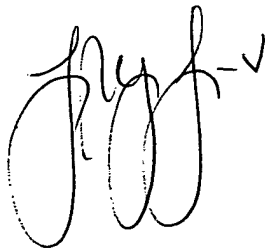
6. The prior art made of record, and not relied upon, is considered pertinent to the disclosure: Trego et al 6595306, Eggert et al 6227320.

7. **Communication with USPTO/Examiner**

Any inquiry concerning this communication, or others, should be directed to Ms. Lum at 703 305-0232, M-F, 9-6. If attempts to reach the examiner are unsuccessful, her supervisor, Ms. Lesley Morris is at 703 308-0629. Our fax number is 703 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications: private PAIR only, for published applications: private or public PAIR. For more information re PAIR: <http://pair-direct.uspto.gov>. Questions re private PAIR: contact the Electronic Business Center (EBC) at 866 217-9197.

Ms. Lee S. Lum
Examiner
9/3/04



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PATENT EXAMINER
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